

SENATE BILL 383

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R3  
SB 389/02 - JPR

2003 Regular Session  
3r0269

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By: ~~Senators Ruben, Giannetti, Hollinger, Jimeno, Lawlah, and Teitelbaum~~  
Teitelbaum, Brochin, Forehand, Haines, and Jacobs

Introduced and read first time: January 31, 2003  
Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 20, 2003

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~Drunk and Drugged Driving - Custodian Liability Warning - Offender~~  
3 ~~Detention - Vehicle Impoundment~~ Prohibition on Driving(John's Law)

4 FOR the purpose of ~~requiring law enforcement agencies to provide certain custodians~~  
5 ~~with a written statement advising of potential criminal or civil liability for~~  
6 ~~allowing or facilitating a person who has been arrested for a certain drunk or~~  
7 ~~drugged driving violation to operate a motor vehicle while the person remains~~  
8 ~~under the influence of alcohol or impaired by alcohol or drugs; requiring a~~  
9 ~~custodian to acknowledge, in writing, receipt of the statement or, if the~~  
10 ~~custodian refuses, requiring the law enforcement agency to record that the~~  
11 ~~statement was provided but the custodian refused to sign an acknowledgment;~~  
12 ~~requiring a law enforcement officer to detain certain persons based on probable~~  
13 ~~cause of a violation of certain drunk or drugged driving offenses for a certain~~  
14 ~~period of time; requiring the arresting law enforcement agency to impound for a~~  
15 ~~certain period the motor vehicle that the arrestee was operating at the time of~~  
16 ~~the arrest; establishing requirements for the release of a motor vehicle~~  
17 ~~impounded under this Act; requiring the Attorney General to perform certain~~  
18 ~~duties and adopt certain regulations; clarifying that this Act does not impose a~~  
19 ~~duty on certain physicians or other health care providers; defining certain~~  
20 ~~terms; and generally relating to prohibiting a person who is arrested for certain~~  
21 alcohol- or drug-related offenses from driving a motor vehicle for a certain  
22 period; providing for an assessment of points against an individual and certain  
23 penalties for a violation of this Act; and generally relating to a prohibition  
24 against driving a motor vehicle for a certain period after an arrest for certain  
25 drunk or drugged driving offenses.

26 BY repealing and reenacting, with amendments,

1 Article - Transportation  
 2 Section 16-402(a)(24) and 27-101(c)(25) and (26)  
 3 Annotated Code of Maryland  
 4 (2002 Replacement Volume)

5 BY adding to  
 6 Article - Transportation  
 7 Section 21-902.1 and 27-101(c)(26)  
 8 Annotated Code of Maryland  
 9 (2002 Replacement Volume)

10 Preamble

11 WHEREAS, John Elliott, a distinguished member of the United States Naval  
 12 Academy Class of 2000, was killed by a drunken driver while driving from Annapolis,  
 13 Maryland to New Jersey on July 22, 2000; and

14 WHEREAS, The person whose car struck John's car had been arrested on a  
 15 drunk driving charge 3 hours earlier and released to the custody of a friend, but  
 16 nevertheless had resumed driving until the accident killed both men and injured  
 17 Kristen Hohenwarter of Westminster, Maryland; and

18 WHEREAS, In the aftermath of John's death, the General Assembly believes it  
 19 important to enact a law, such as one recently enacted in New Jersey, that helps  
 20 protect innocent individuals such as John Elliott from drunk or drugged drivers who  
 21 resume driving shortly after they are arrested; now, therefore,

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article - Transportation**

25 16-402.

26 (a) After the conviction of an individual for a violation of Title 2, Subtitle 5, §  
 27 2-209, or § 3-211 of the Criminal Law Article, or of the vehicle laws or regulations of  
 28 this State or of any local authority, points shall be assessed against the individual as  
 29 of the date of violation and as follows:

30 (24) Driving while impaired by alcohol or while impaired by a drug,  
 31 combination of drugs, or a combination of one or more drugs and alcohol, OR DRIVING  
 32 WITHIN 12 HOURS AFTER ARREST UNDER § 21-902.1 OF THIS ARTICLE ..... 8 points

33 21-902.1.

34 (A) (†) ~~IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS~~  
 35 ~~INDICATED.~~

1 ~~(2)~~ IN THIS SECTION, "ARRESTEE" MEANS A PERSON WHO HAS BEEN  
2 ARRESTED FOR A VIOLATION OF § 21-902 OF THIS SUBTITLE OR TITLE 2, SUBTITLE 5  
3 OR § 3-211 OF THE CRIMINAL LAW ARTICLE.

4 ~~(B)~~ AN ARRESTEE MAY NOT DRIVE A MOTOR VEHICLE WITHIN 12 HOURS  
5 AFTER THE ARRESTEE'S ARREST FOR A VIOLATION OF § 21-902 OF THIS SUBTITLE OR  
6 TITLE 2, SUBTITLE 5 OR § 3-211 OF THE CRIMINAL LAW ARTICLE.

7 ~~(3)~~ "CUSTODIAN" MEANS A PERSON WHO, IN RESPONSE TO A SUMMONS  
8 BY OR ON BEHALF OF AN ARRESTEE, APPEARS AT A LAW ENFORCEMENT AGENCY TO  
9 TRANSPORT OR ACCOMPANY THE ARRESTEE FROM THE LAW ENFORCEMENT  
10 AGENCY.

11 ~~(B)~~ ~~(1)~~ A LAW ENFORCEMENT AGENCY SHALL PROVIDE A CUSTODIAN WITH  
12 A WRITTEN STATEMENT ADVISING OF POTENTIAL CRIMINAL LIABILITY UNDER §  
13 26-101 OF THIS ARTICLE OR CIVIL LIABILITY FOR ALLOWING OR FACILITATING THE  
14 ARRESTEE'S OPERATION OF A MOTOR VEHICLE WHILE THE ARRESTEE REMAINS:

15 ~~(I)~~ UNDER THE INFLUENCE OF ALCOHOL OR UNDER THE  
16 INFLUENCE OF ALCOHOL PER SE;

17 ~~(II)~~ IMPAIRED BY ALCOHOL;

18 ~~(III)~~ IMPAIRED BY DRUGS OR DRUGS AND ALCOHOL; OR

19 ~~(IV)~~ IMPAIRED BY A CONTROLLED DANGEROUS SUBSTANCE.

20 ~~(2)~~ ~~(I)~~ THE CUSTODIAN SHALL ACKNOWLEDGE, IN WRITING, RECEIPT  
21 OF THE STATEMENT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

22 ~~(II)~~ IF THE CUSTODIAN REFUSES TO ACKNOWLEDGE RECEIPT OF  
23 THE STATEMENT, THE LAW ENFORCEMENT AGENCY SHALL RECORD THAT THE  
24 STATEMENT WAS PROVIDED BUT THE CUSTODIAN REFUSED TO SIGN AN  
25 ACKNOWLEDGMENT.

26 ~~(C)~~ EXCEPT AS OTHERWISE AUTHORIZED UNDER LAW, A LAW ENFORCEMENT  
27 OFFICER SHALL DETAIN AN ARRESTEE BASED ON PROBABLE CAUSE THAT THE  
28 ARRESTEE VIOLATED § 21-902 OF THIS SUBTITLE, FOR A PERIOD UNTIL THE LATER  
29 OF:

30 ~~(1)~~ 12 HOURS AFTER THE ARREST; OR

31 ~~(2)~~ THE TIME THE ARRESTEE IS ABLE TO OPERATE A MOTOR VEHICLE  
32 SAFELY WITHOUT VIOLATING ANY PROVISION OF THIS ARTICLE.

33 ~~(D)~~ THE ARRESTING LAW ENFORCEMENT AGENCY SHALL IMPOUND THE  
34 MOTOR VEHICLE THAT THE ARRESTEE WAS OPERATING WHEN ARRESTED AND MAY  
35 NOT RELEASE THE MOTOR VEHICLE TO THE ARRESTEE UNTIL THE LATER OF:

36 ~~(1)~~ 12 HOURS AFTER THE ARREST; OR

1           (2)     ~~THE TIME THE ARRESTEE MEETS THE CONDITIONS OF SUBSECTION~~  
2 ~~(F) OF THIS SECTION.~~

3           (E)     ~~A MOTOR VEHICLE IMPOUNDED UNDER THIS SECTION MAY BE RELEASED~~  
4 ~~TO A PERSON OTHER THAN THE ARRESTEE BEFORE THE END OF THE IMPOUNDMENT~~  
5 ~~PERIOD DESCRIBED UNDER SUBSECTION (D) OF THIS SECTION ONLY IF:~~

6           (1)     ~~THE MOTOR VEHICLE IS NOT OWNED OR LEASED BY THE ARRESTEE~~  
7 ~~AND THE PERSON WHO OWNS OR LEASES THE MOTOR VEHICLE CLAIMS THE MOTOR~~  
8 ~~VEHICLE AND MEETS THE CONDITIONS FOR RELEASE SPECIFIED IN SUBSECTION (F)~~  
9 ~~OF THIS SECTION; OR~~

10          (2)     (1)     ~~THE MOTOR VEHICLE IS OWNED OR LEASED BY THE ARRESTEE;~~

11                   (II)    ~~THE ARRESTEE ALLOWS THE RELEASE OF THE MOTOR~~  
12 ~~VEHICLE TO ANOTHER PERSON WHO HAS ACKNOWLEDGED, IN WRITING, RECEIPT OF~~  
13 ~~THE STATEMENT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION; AND~~

14                   (III)   ~~THE CONDITIONS FOR RELEASE SPECIFIED IN SUBSECTION (E)~~  
15 ~~OF THIS SECTION ARE MET.~~

16           (F)     ~~A MOTOR VEHICLE IMPOUNDED UNDER THIS SECTION MAY NOT BE~~  
17 ~~RELEASED UNLESS THE PERSON CLAIMING THE MOTOR VEHICLE:~~

18           (1)     ~~PRESENTS A VALID DRIVER'S LICENSE, PROOF OF OWNERSHIP OF OR~~  
19 ~~LAWFUL AUTHORITY TO OPERATE THE MOTOR VEHICLE, AND PROOF OF VALID~~  
20 ~~MOTOR VEHICLE INSURANCE FOR THAT MOTOR VEHICLE;~~

21           (2)     ~~IS ABLE TO OPERATE THE MOTOR VEHICLE SAFELY WITHOUT~~  
22 ~~VIOLATING ANY PROVISION OF THIS ARTICLE; AND~~

23           (3)     ~~SUBJECT TO REVIEW BY THE DISTRICT COURT, MEETS ANY OTHER~~  
24 ~~REASONABLE CONDITION FOR RELEASE THAT IS ESTABLISHED BY THE LAW~~  
25 ~~ENFORCEMENT AGENCY.~~

26           (G)     ~~A LAW ENFORCEMENT AGENCY THAT IMPOUNDS A MOTOR VEHICLE~~  
27 ~~UNDER THIS SECTION MAY CHARGE A REASONABLE FEE FOR TOWING AND STORAGE~~  
28 ~~OF THE MOTOR VEHICLE AND MAY RETAIN THE MOTOR VEHICLE UNTIL THE FEE IS~~  
29 ~~PAID.~~

30           (H)     ~~THE ATTORNEY GENERAL SHALL:~~

31           (1)     ~~ESTABLISH THE CONTENT AND FORM OF THE WRITTEN STATEMENT~~  
32 ~~OF LIABILITY AND ACKNOWLEDGMENT OF RECEIPT DESCRIBED UNDER SUBSECTION~~  
33 ~~(B) OF THIS SECTION; AND~~

34           (2)     ~~ADOPT REGULATIONS TO CARRY OUT THIS SECTION.~~

1       ~~(f)       THIS SECTION DOES NOT IMPOSE A DUTY ON A PHYSICIAN OR OTHER~~  
2 ~~HEALTH CARE PROVIDER INVOLVED IN THE TREATMENT OR EVALUATION OF THE~~  
3 ~~ARRESTEE.~~

4 27-101.

5       (c)       Any person who is convicted of a violation of any of the provisions of the  
6 following sections of this article is subject to a fine of not more than \$500 or  
7 imprisonment for not more than 2 months or both:

8               (25)     Except as provided in subsections (f) and (q) of this section, §  
9 21-902(d) ("Driving while impaired by controlled dangerous substance"); [or]

10              (26)     § 21-902.1 ("DRIVING WITHIN 12 HOURS AFTER ARREST"); OR

11              [(26)]   (27)     § 27-107(d), (e), (f), or (g) (Prohibited acts - Ignition interlock  
12 systems").

13       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
14 effect October 1, 2003.